IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 20067 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HARKAURBEN WD/O. ANUPSING LALSING GROWER - Petitioner(s)

Versus

THE STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :

MR ASPI M KAPADIA for Petitioner(s) : 1,
MR MR MENGADE ASST GOVERNMENT PLEADER for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 1, 4,
MR HS MUNSHAW for Respondent(s) : 2,
MR PRASHANT G DESAI for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 27/10/2005

ORAL JUDGMENT

1. Rule. Shri M.R.Mengade, learned AGP waives service of rule on behalf of the respondent Nos.1 & 4. Shri H.S.Munshaw, learned advocate waives service

of rule on behalf of the respondent No.2 and Shri Prashant G. Desai, learned advocate waives service of rule on behalf of the respondent No.3. With the consent of the learned advocates for the parties, the matter is taken up for final hearing today.

2. In this petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, order and / or direction directing the respondent authorities to expeditiously complete the proceedings for acquisition of the petitioner's land admeasuring 2356.84 sq.mtrs of Nondh No.3425 paiki of Ward No.2 of Surat.

3. Shri A.M.Kapadia, learned advocate appearing on behalf of the petitioner has submitted that the land in question is under reservation and in the year 1982 the Standing Committee of Municipal Corporation of Surat passed a unanimous resolution No.151 dated 23.4.1982 for acquiring the aforesaid lands for the purpose of school and playground and pursuant to the said request of the Surat Municipal Corporation, the lands of the petitioner were put under reservation

for the public purpose under the provisions of Section-20 of the Gujarat Town Planning Act and the same were shown as P-23 under the draft development plant of the year 1986 of SUDA. I tis also further submitted that in the year 1991 the Surat Municipal Corporation has passed unanimous resolution No.2326 dated 14.2.1991 resolving to continue with the procedure for acquisition of the petitioner's land. It is also further submitted that thereafter again in the year 1996, a resolution came to be passed to acquire the land in question. It is also submitted that even thereafter also the land in question is not acquired though many years have passed. Therefore, it is the case of the petitioner that on one hand the petitioner is not in a position to use the land in question and on the other hand, the land in question is neither acquired nor the petitioner is paid any compensation. Under the aforesaid facts and circumstances, it is requested to grant the reliefs as prayed for in the present special civil application.

4. Shri M.R.Mengade, learned AGP on the basis of

the instructions received from the respondent Nos.1 & 4, more particularly, Collector, Surat has submitted that the proceedings for acquisition of the land could not be initiated and / or completed in view of the proceedings under the Urban Land Ceiling Act, however, he submits that such proceedings will be completed as early as possible. Considering the fact that the first Resolution came to be passed by the Surat Municipal Corporation in the year 1982 requiring to acquire the land in question for school and playground and still notification under Section-4 of the Act is not issued though some proceedings have been initiated for acquisition of the land in question, it will be in the fitness of the things to direct the concerned respondents to complete the proceedings as early as possible and at the first instance for issuance of notification under Section-4 of the Land Acquisition Act within a period of six months from today and thereafter to complete the proceedings as per the provisions of the Land Acquisition Act.

5. Accordingly, the concerned respondents, more

particularly, the respondent Nos.1 and 4 are directed to see that notification under Section-4 of the Act for acquisition of the land in question is issued within six months from today and thereafter to complete the acquisition proceedings as per the procedure prescribed under the Land Acquisition Act.

6. Rule is made absolute to the aforesaid extent, however, there will be no order as to costs.

Direct Service is permitted.

[M.R.SHAH, J.]

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